

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States District Court
Southern District of Texas
FILED

OCT 05 1999

Michael N. Milby, Clerk

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,
Plaintiff,

v.

BAY, INC. d/b/a BAY, LTD.,
Defendant.

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Civil Action No.

COMPLAINT

JURY TRIAL DEMAND

C-99-413

NATURE OF ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of national origin, Hispanic, and to provide appropriate relief to Natividad Perez who was adversely affected by such practices. The Commission alleges that Natividad Perez was subjected to unlawful discrimination based on his national origin when he was terminated from his job with Defendant, Bay, Inc. d/b/a Bay, Ltd. (hereinafter "Bay, Ltd.").

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Southern District of Texas, Corpus Christi Division.

1.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (hereinafter "the Commission"), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Bay, Ltd., a corporation registered to do business in the State of Texas, has continuously been doing business in the State of Texas in the city of Corpus Christi, Texas and has continuously had at least fifteen employees.

5. At all relevant times, the Defendant, Bay, Ltd. has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Natividad Perez filed a charge with the Commission alleging violations of Title VII by Defendant, Bay, Ltd. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least on or about December 15, 1997, the Defendant, Bay, Ltd., has engaged in unlawful employment practices at its Corpus Christi, Texas facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a)(1). The unlawful practices were to subject Natividad Perez to disparate discipline and discharge based on his national origin, Hispanic. The Commission alleges that Defendant Bay, Ltd. terminated Perez after an accident involving damage to a light pole on December 15, 1997, when other similarly situated white employees were not terminated for similar conduct. Finally, the Commission complains that Defendant, Bay, Ltd., wrongfully

terminated Perez based on his national origin, Hispanic, and that the reasons given by Defendant, Bay Ltd., for his termination are pretextual.

8. The effect of the practices complained of in paragraph seven above has been to deprive Natividad Perez of equal employment opportunities and to otherwise adversely affect his status as an employee, because of his national origin, Hispanic.

9. The unlawful employment practices complained of in paragraph seven were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were and are being done with malice or reckless indifference to the federally protected rights of Natividad Perez .

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, Bay, Ltd., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in conduct which results in disparate discipline or discharge, and in any conduct or employment practice which discriminates on the basis of national origin;

B. Order the Defendant, Bay, Ltd., to institute and carry out policies, practices, and programs which provide equal employment opportunities for persons of all national origins, and which eradicate the effects of its past and present unlawful employment practices;

C. Order the Defendant, Bay, Ltd., to make whole Natividad Perez, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including

but not limited to the re-instatement of Natividad Perez as a motor grader operator or similar position;

D. Order the Defendant, Bay, Ltd., to make whole Natividad Perez, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including, but not limited to, medical expenses and job search expenses, in amounts to be determined at trial;

E. Order the Defendant, Bay, Ltd., to make whole Natividad Perez, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph seven above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

F. Order the Defendant, Bay, Ltd., to pay Natividad Perez punitive damages for its malicious and reckless conduct described in paragraphs seven, eight, nine and ten above, in amounts to be determined at trial;

G. Grant such further relief as the Court deems necessary and proper in the public interest; and

H. Award the Commission its costs in this action.

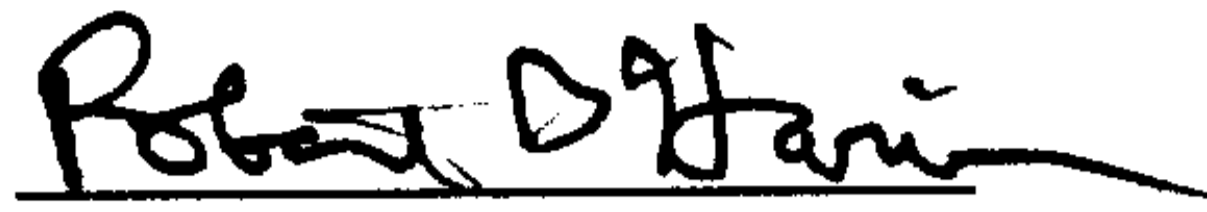
JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

C. GREGORY STEWART
General Counsel Designate

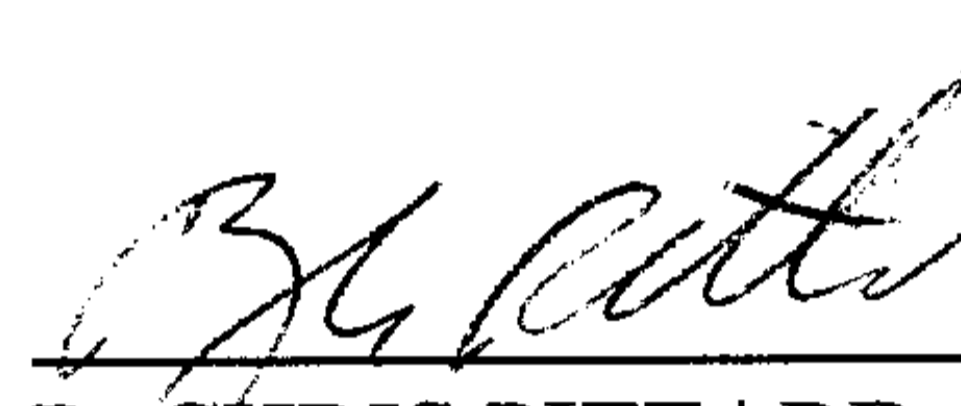
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